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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF FREEDOM OF EXPRESSION

Report submitted by Mr. Abid Hussain, Special Rapporteur, in accordance with Commission on Human Rights resolution 1999/36

Addendum

Visit to the Sudan

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Introduction

1. This report has been prepared pursuant to resolution 1999/36 of the Commission on Human Rights. It presents and analyses information received by Mr. Abid Hussain, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, during his visit to the Sudan from 20 to 26 September 1999, as well as information received from individuals and non-governmental organizations concerning allegations of violations of the right to freedom of opinion and expression.

2. The Special Rapporteur visited the Sudan in the context of his mandate and in accordance with General Assembly resolution 50/197 of 22 December 1995 and Commission on Human Rights resolution 1996/73, encouraging him and the Special Rapporteur on religious intolerance to consult with the Special Rapporteur on the situation of human rights in the Sudan with a view to undertaking a visit to the Sudan. The Government extended an invitation on 5 March 1996 to both Special Rapporteurs. The Special Rapporteur on religious intolerance visited the Sudan from 19 to 24 September 1996 and submitted a report (A/51/542/Add.2) to the General Assembly at its fifty-first session in November 1996. The visit of the Special Rapporteur on freedom of opinion and expression initially scheduled in 1998 had to be postponed owing to previous commitments. Following a meeting between the Special Rapporteur and the Ambassador of the Sudan on 30 April 1999 during the fifty-fifth session of the Commission on Human Rights, it was agreed that the visit would take place from 20 to 26 September 1999.

3. The Special Rapporteur would like to express his gratitude for the cooperation extended to him in discharging his mandate by the Government of the Sudan. He would like to convey his gratitude, especially, to the Rapporteur of the Advisory Council for Human Rights and its staff, who helped make this visit successful.

4. The Special Rapporteur would also like to express his appreciation to the United Nations Resident Coordinator and the staff for their efficient organization of his visit.

5. Because of time constraints, the visit was confined to Khartoum where, in any case, all the media are concentrated. Consequently, the Special Rapporteur was prevented from addressing the difficult situation in southern Sudan, but will report about his findings in the northern part of the country.

6. During his visit, the Special Rapporteur met with the President of the National Assembly, Mr. Hasan Turabi, representatives of the Government, some members of parliament and the judiciary, as well as with representatives of non-governmental organizations active in the field of human rights, academics, media professionals, witnesses and victims of alleged violations of the right to freedom of opinion and expression, and other members of civil society who were of interest to his mandate.

7. A list of persons with whom the Special Rapporteur met during the visit is contained in the annex to this report. The Special Rapporteur would like to take this opportunity to thank those he met for their generous efforts to assist him during his visit to the Sudan.

I. GENERAL BACKGROUND AND LEGAL FRAMEWORK

A. General background

8. The Sudan gained independence in 1956 and since then, the country has experienced only 11 years of peace. Since 1983 the Government of the Sudan has been engaged in a civil conflict whose adverse impact on the situation of human rights has been borne by the civilian population caught in the crossfire. In a climate of serious human rights violations and war-related abuses, the conflict originating in the southern part of the Sudan has resulted in a large number of deaths and many internally displaced persons and refugees, as well as inducing famine, isolation and crusading intervention.

9. In the past few years the Sudan has been going through significant changes. Steps have been taken towards a peaceful resolution of the conflict. The 1994 Declaration of Principles (DOP) agreed by the Government of the Sudan, the Sudan People's Liberation Movement (SPLM) and the Sudan People's Liberation Army (SPLA) has offered the basis for a peaceful solution, under the aegis of the Inter-Governmental Authority on Development (IGAD) composed of Eritrea, Ethiopia, Kenya and Uganda. The Government has also initiated a strategy of "peace from within" with the signing of a peace agreement in Khartoum, on 21 April 1997, between the Government and six splinter groups, which, however, do not include the Sudan People's Liberation Movement/Army (SPLM/A). In addition to the reactivation of the Technical Committee for Humanitarian Affairs (TCHA) and declarations of ceasefire, a 21-point agreement on a comprehensive peace settlement was adopted during the Summit meeting of IGAD in November 1999. The agreement provides for the endorsement by the Government of generous political arrangements in the south after a transitional period. In addition, Egypt and Libya launched a more comprehensive peace initiative early in 1999 which takes into account the northern opposition as well, but denies self-determination to the south.

10. Almost a decade after the military coup that brought Omar Hassan Ahmad al-Bashir to power in 1989, a new Constitution was adopted in April 1998. The new Constitution significantly contains a bill of rights. Moreover, national elections are scheduled to take place in the spring of 2000. But the opening up of the political system has been accompanied by some not very encouraging signs. On 13 December 1999, a state of emergency was declared for a period of three months. In 1999, the Sudan exported its first shipment of crude oil from the Nuer oilfields in Bentiu, which has contributed to overcoming its previous isolation from the international community. However, this source of income runs the risk of being sabotaged by the continuation of hostility between the Government and the rebel groups. The Sudan, therefore, continues to welcome international humanitarian aid, although the United Nations cross-border relief programme, Operation Life-line Sudan (OLS), has been crippled by this warfare. The perennial tension between morality and pragmatism remains a moral and intellectual dilemma. The Special Rapporteur believes that the Government of the Sudan could reconcile means with ends, least the means corrupt the ends.

11. An important element in this political process has been the easing up on the press and the media since 1997. In particular, the new Constitution seems to encourage freedom of expression and opinion, although "as regulated by law". There are a wide variety of Arabic and English publications as well as nine daily newspapers, while Sudan television offers domestic and

satellite services with a pay cable network of six channels. Nevertheless, the Government's hold on the media remains tight and a number of restrictions on freedom of opinion and expression are still in place.

B. Legal framework

12. In this section, the Special Rapporteur will briefly consider some aspects of the international and national legal framework governing the protection of the right to freedom of opinion and expression in the Sudan.

1. International obligations

13. The Sudan is a member of the United Nations and is thus bound to respect the rights and guarantees set out in the Universal Declaration of Human Rights, article 19 of which enshrines the right to freedom of opinion and expression.

14. The Sudan has accepted a wide range of international obligations in the field of human rights. It is a party to the following instruments: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Slavery Convention, as amended, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, the Convention relating to the Status of Refugees and the Protocol thereto. Furthermore, the Sudan is a party to the African Charter on Human and Peoples' Rights.

15. Although the Sudan has signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, this has not yet been followed by ratification. Moreover, the Sudan has not acceded to the Convention on the Elimination of All Forms of Discrimination against Women and the two optional protocols to the International Covenant on Civil and Political Rights.

2. National legislation

16. In the past year, a new Constitution and new laws were drafted and passed by the Sudanese National Assembly, providing the legal framework for the creation of a democratic system.

(a) The Constitution

17. The National Assembly adopted a new Constitution on 29 March 1998, which entered into force on 1 July 1998 following a national referendum.

18. Article 55 of the Constitution states that the source of legislation is "Islamic Law and the Consensus of the nation, by referendum, Constitution and custom". Moreover, in Part I (4) it is also stated that "Supremacy in the State is to God the creator of human beings, and sovereignty is to the viceregent people of the Sudan who practise it as worship of God".

19. A Bill of Rights provides for most of the rights set forth in the International Covenant on Civil and Political Rights and is contained in Part II "Freedoms, Sanctities, Rights and Duties", which includes articles 20 to 34 of the Constitution. Article 25 deals with freedom of thought and expression, and reads as follows: "There shall be guaranteed for citizens the freedom of pursuing any science or adopting any doctrine of opinion or thought without coercion by authority, and there shall be guaranteed the freedom of expression, reception of information, publication and the press without prejudice to security, order, safety and public morals, as regulated by law".

20. Significantly, the enactment of the Constitution has made necessary a review of all existing legislation to bring it into line with the spirit of the new Constitution.

21. The recent declaration of a state of emergency contributed to the suspension of certain articles of the Constitution, in particular articles 56, 57, 59 and 60 (2) and (3). Article 25 (Freedom of thought and expression) and article 26 (Freedom of association and organization) are not concerned.

(b) The law on the press and other mass media

22. The Press Act 1999 replaces the previous Press and Printed Matters Act of 1993. This new legislation provides additional rights for newspapers. In particular, they can now be issued by any legally registered political organization. The protection of journalists' sources is also guaranteed.

23. Chapter II of the Press Act 1999 also establishes the jurisdiction and powers of the National Press Council, which is responsible for the granting of licences to domestic and foreign press institutions, the registering of journalists, as well as adjudicating complaints, through warnings, sanctions and penalties. The Council is composed of 21 members: 7 are appointed directly by the President, 5 are chosen among the National Assembly, while the remaining members are elected among representatives of the press. The Council's financial resources come directly from the State. With regard to sanctions and penalties, the Council can enforce the suspension of a journalist for two weeks and of a newspaper for up to two months. The most serious offences can lead to the revocation of the licence, as well as to the confiscation of the printing press. Moreover, if a newspaper has been suspended twice, the Council can remit the third contravention to a competent court with specific jurisdiction over the press. An appeal can be lodged to the court within 30 days of notification of the sanction.

24. Based on statistics provided by the Council, 195 cases of complaints were examined between April 1997 and September 1999. In a fifth of the cases, the Council opted for the suspension of newspapers for stated political (47 per cent) or social reasons (23.8 per cent). The Council dismissed the complaints in 52 of the cases.

25. The Code of Ethics, drafted by the Sudanese Union of Journalists, contains 10 clauses dealing with professional conduct and values. In particular, article 2 mentions that journalists must strive in favour of fundamental human rights and values as contained in local, regional and international legislation. Article 3 reaffirms their intention to respect all religious values, while article 6 deals with "fighting all forms of corruption and conduct harmful to the interest of the

country". Finally, the Code of Ethics also takes into account professional performance, training and union. Its preamble significantly states that Sudanese journalists will respect the Code of Ethics in spite of enticements and intimidation to which they may be subjected.

(c) Other legislation with a direct impact on the exercise of the right to freedom of opinion and expression

26. In 1983, the shariah became the core of the Sudan's civil and criminal systems. The relevance of faith is not confined to the area of individual morality, but it is also part of socio-economic and political relationships. The regular police force is supplemented by the "Morality and General Discipline" group, which deals with offences relating to public morality (improper dress, indecency, alcohol violations, prostitution, etc.).

27. The Criminal Code of 1991 declares to be an unlawful assembly a gathering of more than five persons without prior approval by the competent State authorities. The Criminal Code serves two principal ends: the security of the State and the sanctity of Islamic concepts of justice. Section 152 of the Penal Code purports to outlaw "indecent and immoral acts". The Code punishes with 40 lashes "whoever commits in a public place, an act or conducts himself in an indecent manner or a manner contrary to public morality or wears an indecent or immoral uniform which causes annoyance to public feelings". Similarly section 153 punishes by lashing "whoever manufactures, photographs, possesses or handles materials contrary to public morality". In addition, article 159 of the Criminal Code states:

> "One can be accused of defamation if he/she spreads by any available means information relating to events or to the behaviour of a specific person with the intention of harming the latter's reputation. One shall not be accused of defamation in the following instances: (1) if his act occurred during juridical procedure, (2) if he or someone else had a legitimate complaint or a legitimate interest to defend himself which could not have happened without publishing the relevant information, (3) if the libelled person was acting in his public capacity and the information published was needed to assess his competency and activities, (4) if the facts were mentioned in good will or the person had already a reputation for that concerning which he is bringing an accusation of libel, (5) if the releasing of information on the individual character related to the public interest."

The crime of defamation can be punished with imprisonment for up to six months and a fine, or both.

28. The Political Association Act 1998, permitting political organizational activities under the terms of Tawali law, came into force on 1 January 1999 to allow the registration of political parties. Section 3 of this law states that "Every association in political movement must adhere to the ideology of Al-Ingaz (Salvation)". Al-Ingaz is a term the regime uses for itself. Thus, the provision requires that all political organizations must agree to adhere to the ideology of the ruling party in order to be registered. Section 3 also provides "Every association should not *discriminate against members because of race, colour, heritage, sex, class or political residence*".

29. The 1994 National Security Act, which is part of the emergency legislation, grants security forces virtual immunity from prosecution and provides them with investigative powers

that include arbitrary arrest, incommunicado detention, long detention without judicial review and arbitrary search. This Act is included in a list of laws to be reviewed by the Constitutional Court and was revised by the National Assembly on 14 July 1999 to become the National Security Forces Act 1999.

3. The establishment of new institutions

30. Certain institutions have been created in the Sudan to implement protection and promotion of human rights.

31. The Constitutional Court has been established to protect the Bill of Rights enshrined in the Constitution. As specified in chapter IV of the Constitution, the Constitutional Court is responsible for determining the constitutionality of statutory provisions and for the preliminary examination of certain provisions of draft laws in order to prevent Parliament from adopting laws contrary to the Constitution. Its members are appointed by the President, with the consent of the National Assembly. This provision of chapter IV of the Constitution - particularly important in the case of violation of any of the rights recognized in the international human rights standards - establishes the possibility for any individual to lodge a complaint with the Constitutional Court - provided that all other remedies have been exhausted or no other remedy is available - alleging that his rights have been violated by the application of an unconstitutional provision of law in respect of his rights. One of the major current tasks of the Constitutional Court is the review of 15 laws of various types.

32. The Advisory Council for Human Rights, established by presidential decree dated 29 October 1994, is composed of 13 members and is mandated, inter alia, to advise the Government on human rights, to participate in local, regional and international conferences and to organize visits by individuals and competent organizations. The Advisory Council, headed by its Rapporteur, Dr. El-Mufti, has the role of focal point in the field of human rights and is the principal interlocutor of the United Nations for all questions relating to human rights. One of the most recent activities of the Council has been the establishment of human rights education committees in the 26 states of the Sudan, chaired by the Minister of Education. Among other things, the committees are mandated to train law enforcement officers on all human rights issues. The Council itself is chaired by the Minister of Justice, while its members include officials of various ministries, the bar association and the women's union. The Council has urged revision of procedures that restrict travel of women under 50 years of age outside the country and has also asked for the release of political prisoners.

33. The Human Rights and Public Duties Committee is a legislative organ delegated by the National Assembly to deal with human rights issues. It is particularly in charge of harmonizing Sudanese domestic legislation with international human rights standards.

34. The 1998 Constitution, in article 130 (1), provides for a public grievances and corrections board whose chairman and members are appointed directly by the President with the approval of the National Assembly. According to article 130 (2), the functions of the Committee are similar to those of an Ombudsman in that "it shall work at the federal level to clear away grievances, assure efficiency and purity in the practice of the State ... and to extend justice after the final decisions of the institutions of justice". The individual complaints which are addressed to this

Committee should be characterized by the fact that all legal remedies have been exhausted. Most of the complaints received deal with the right to property, and human rights is not within its competence. Cases relating to human rights are addressed directly to the Constitutional Court.

II. PRINCIPAL CONSIDERATIONS AND CONCERNS

A. The media

35. In order to assess the situation with regard to the right to freedom of opinion and expression in the Sudan, the Special Rapporteur met with a large number of media professionals, as well as with members of the Sudanese Journalists Association.

1. The print media

36. The Sudanese print media is dominated by six dailies: two officials, El Anbah and El Esbouh, and three privately owned newspapers, Al Rai Al Akhar, El Sahafa and Al-Sharii Al Seyasi. A governmental paper, Al-Sahafi Aldwli, was created recently and a private newspaper, El Haiam, which had been suspended since 1989, resumed publication on 10 February 2000. In addition there are about 15 national, private and governmental periodicals, of which the most popular are the sports magazines.

37. The Special Rapporteur noted that the press in the Sudan exercised more freedom than in previous years. This improvement has occurred particularly in the print media. Indeed, all the interlocutors the Special Rapporteur interviewed agreed that more and more unofficial opinions are appearing in the media and that some lively discussions of domestic and foreign policy were published, particularly in the press.

38. However, the Special Rapporteur was told that at the same time the Government of the Sudan still exercises a tight control of news reporting. Criticism of the Government or the Islamic doctrine on which its laws are based often leads to suspension or seizure of the newspaper. Indeed main opposition newspapers are based in Cairo or London and their circulation in the Sudan is strictly forbidden. In the light of the allegations received, the Special Rapporteur wishes to draw attention to certain points which, in his view, raise serious concerns about the exercise of the right to freedom of opinion and expression.

(a) Restrictions in the domain of information

39. Many subjects remain taboo for the media, such as religion or the conflict between government troops and rebels in the south of the country, as well as State corruption. These subjects are covered in a very vague and indirect form in article 25 of the Press Act 1999, which establishes a list of sensitive issues and sets forth sufficiently broad restrictions so as to justify all sorts of censure, whether it concerns questions of society or the war in the south of the country.

40. In spite of the larger freedom experienced by the press, some topics which have an indirect link with the conflict in the south, like the issue of slavery and the abduction of children, are subject to self-censorship. In this regard, concern was expressed over the reporting on the armed conflict in the South. The self-censorship of journalists indirectly imposed by the

authorities on these issues cannot be considered as facilitating comprehension of the conflict in the region. The fact that there are almost no media in the south, except television and radio in Juba, and the alleged lack of access of journalists to the war zones are a matter of serious concern.

(b) The Press Act 1999 and the suspension of newspapers

41. As far as the legislation is concerned, the Special Rapporteur would like to raise some points concerning the new Press Act adopted on 10 May 1999. According to some journalists and academics, this law is not a real improvement. In comparison to the previous 1993 Act, the following difference has been brought to the Special Rapporteur's attention: the new law clearly states that the editor-in-chief shall be the first person responsible for "good" editing performance, subject to criminal law. With regard to the rights of journalists, the current law is somewhat less clear because it only states that journalists "shall not be subject to any unlawful act"; yet a journalist can still face arrest after notification to the General Union. Although the new Act contains some positive features, such as the protection of sources, the obligations of journalists are very broad. For instance, the Act leaves it open to interpretation as to what constitutes an "offence" in publishing information that may endanger national security, or may be in conflict with public morality, religion and science, as well as causing incitement and exaggeration in the public. Therefore, most Sudanese journalists still practise self-censorship. The vague criteria used for this new law seem to harm press freedom more than the former law of 1993.

42. The Special Rapporteur was informed by government representatives that there is no official secrets act to define which State information should be classified. Similarly, there is a notable absence of a freedom of information act to determine which information should be open to public scrutiny. In this regard, the Special Rapporteur wishes to emphasize that everyone has the right to seek, receive and impart information and that this imposes a positive obligation on States to ensure access to information. He would strongly recommend that the Government of the Sudan follow the guidelines on freedom of information legislation established by the non-governmental organization Article 19 - The International Centre against Censorship, which are annexed to his latest annual report to the Commission on Human Rights (E/CN.4/2000/63).

43. As mentioned previously, the Press Act 1999 establishes the National Press Council (NPC) which is in charge of controlling the implementation of the Press law and also has the administrative power to suspend any newspaper, as well as to limit and control the creation of newspapers. In the light of the high number of newspapers suspended, the Special Rapporteur noticed views critical of the work of the NPC. Indeed, he was disturbed to learn that in the course of recent months, several newspapers, mainly independent ones, had been seized or suspended by the NPC. The Special Rapporteur was told that the NPC has no independence, given the fact that it is entirely under the Head of State. The NPC and the mechanisms of the Committee on Complaints are therefore criticized by a large number of Sudanese journalists. Indeed, suspension measures against newspapers could be meted out without any regard to judicial procedure.

44. Along the same lines, another controversy was brought to the attention of the Special Rapporteur regarding the legitimacy of the sanctions of the NPC. Article 32 of the Press Act provides for a specific court for press and publications cases, to which any person aggrieved by a

sanction of the NPC may appeal within 30 days. The general feeling expressed to the Special Rapporteur by the Sudanese press and the Human Rights and Public Duties Committee of the National Assembly was that the NPC should limit itself to granting licences to the press, but should not have competence to suspend newspapers. According to them, this matter should be taken up by the court at the earliest stage. On the other hand, some journalists and academics consider that if the Court was the only body competent to suspend newspapers, the lengthy process in court would be a negative point and the sanctions might be higher.

45. The Special Rapporteur considers this debate to be extremely important for the sustainable improvement of the situation of the press in the Sudan. He would be in favour of a self-regulating body, such as exists in other countries.[1] Here he wishes to recall that a free, independent and responsible press is a prerequisite for a democracy.

46. Particular concern was expressed over the large number of newspapers which were banned or suspended for days at a time. During 1999, at least three newspapers were suspended for publishing articles criticizing the Government on approximately 13 different occasions for periods ranging from one day up to a maximum of 34 days, causing considerable financial difficulties for these newspapers.

47. The indefinite suspension of the Al-Rai Al-Akhar newspaper on 16 September 1999 was brought to the Special Rapporteur's attention. Founded in 1995, this newspaper is known for its sharp criticism of the Government; it has requested many times that the articles of the Act which "shackle the liberty of publication and expression" be repealed. According to information received, the suspension was the result of a presidential decision bypassing NPC jurisdiction. Allegedly Ms. Amal Abbas, the chief editor of the newspaper, was summoned by the security services and interrogated on alleged complaints from "holy warriors" concerning articles sceptical of forced conscription into the army. The newspaper has already been suspended six times for articles critical of the political and economic situation in the Sudan. Indeed, the NPC suspended Al-Rai Al-Akhar for two days on 11 January 1999, for another two days on 22 June, for five days on 5 July, for two days on 26 July, for a week on 18 August and one week on 1 September 1999. On 31 August 1999, the Ahila Press and Publication Company, publisher of Al-Rai Al-Akhar, submitted a petition to the Sudanese Constitutional Court against the repeated suspensions by the NPC. The Council has often accused the newspaper of violating "journalistic ethics" for publishing articles on a wide range of issues, such as education standards, government policies and the drug trade in the Sudan.

48. The Special Rapporteur has learned with satisfaction that, on 17 December 1999, the President decreed that Al-Rai Al-Akhar should be allowed to reappear without conditions. It resumed publication on 3 January 2000.

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[1] See the report of the Special Rapporteur on his mission to the United Kingdom of Great Britain and Northern Ireland (E/CN.4/2000/63/Add.3).

(c) Intimidation of journalists

49. At the present time there are no journalists in Sudanese prisons. Nevertheless, several cases of journalists who have been detained for a limited time are still being registered. These persons are generally detained in "ghost houses", secret places where security forces often resort to torture.

50. Even if journalists are rarely arrested, they are often summoned for the purpose of intimidation and thus remain victims of harassment by the authorities, who drive them to self-censorship.

51. The Special Rapporteur is disturbed to learn that from March to September 1999, a number of arrests and detentions of journalists took place.

52. On 22 June 1999, it was reported that the chief editors of three Sudanese daily newspapers faced charges punishable by imprisonment following the publication of speeches of opposition leaders, seen by the authorities as endangering national security. The editors in question were Amal Abbas, chief editor of Al-Rai Al Akhar, Mohamed Mohamed Ahmed Karrar, chief editor of Elsharee Elsyasi and Mohi Eddin Titawi of Al Usbu.

53. On 21 May 1999, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the situation of human rights in the Sudan and the Special Rapporteur on torture to the Government of the Sudan concerning the case of Mohammed Abdel Seed, Khartoum correspondent for the London-based Arabic-language daily Ash Sharq al-Awsat, who was arrested on 14 April 1999 by security officers at his home in Al Kalakla, a town in the district of Khartoum, and kept in solitary confinement until his release on 26 May 1999 without charge or trial. It is alleged that he was so badly tortured during his detention that he could not walk and was in urgent need of medical treatment. In this communication the Special Rapporteurs also referred to the cases of two other journalists, Mutasim Mahmoud and Maha Hassan Ali, who were arrested on 14 and 18 April 1999 and reportedly accused of spying for a foreign power. They were both released two days later.

54. The Government of the Sudan sent a reply to the three Special Rapporteurs on 17 June 2000 informing them that Mohammed Abdel Seed and Maha Hassan Ali had been arrested for preliminary investigation in connection with criminal charges under the law and not because of their profession. According to the Government, they were accused of disclosing classified information to certain foreign circles and their right to physical and mental integrity was fully ensured. Concerning Mutasim Mahmoud, the Government stated that he had never been arrested.

55. On 17 and 18 April 1999, the chief political editor of Al Ray Alaam newspaper and a journalist of the Sudan News Agency (SUNA) were held in incommunicado detention. A few days before, the pro-government newspapers had undertaken a wide campaign of hostility against journalists for being agents of a foreign country. Both journalists were subsequently released.

56. The Special Rapporteur was further informed that three journalists, Mohammed Abdel Seed, Khartoum correspondent for the London-based Arabic-language daily Ash Sharq al-Awsat, freelance reporter Mustapha Sirre and Nasser Salaheddine were arrested by the Sudanese police on 17 November 1999 during a telephone press conference with SPLA leader, John Garang. It was alleged that the police broke into the office of Ghazi Suleiman, who had arranged the meeting, and took 17 people, mostly lawyers, to interrogate them at the police station on charges of disturbing public order. They were released on bail after a few hours and were asked to report the next day for further interrogation.

(d) Other types of constraints applied to the media

57. In addition, the Special Rapporteur has learned that the Sudanese press, which employs most of the 650 professional journalists, is suffering from a serious lack of paper, which is especially affecting the independent press. Consequently the circulation of these newspapers, as well as the ones owned by the State, is very low. Furthermore, it seems that the State is a shareholder in private newspapers, a situation which clearly affects the financial independence of newspapers.

58. With regard to the foreign media, there are very few imported newspapers and these are carefully selected by the Press Council. Distribution of foreign publications is in effect controlled by article 29 of the Press Act 1999 which grants power to the Press Council to authorize, or not, the importation and distribution of foreign publications. They are usually distributed in hotels reserved for foreigners and to some officials. The distribution of Egyptian and Saudi newspapers, forbidden for several years, was re-established in June and July 1996.

(e) The broadcast media and the new technologies

59. In the Sudan there are two national public Hertzian television stations. They only cover the state of Khartoum. These two stations are under the direct control of the Ministry of Information and Culture, and primarily follow the governmental line. The eight states also have the use of a television station that broadcasts their programmes via local rerouting on the main public channel.

60. The Sudan has its own satellite station whose main goal is to project the most positive image of the country. Sudanese citizens are allowed to subscribe to this channel on payment of a monthly fee. The broadcast media in the Sudan also include three national public radio stations and 19 local public radio stations.

61. Several concerns have been expressed with regard to the coverage of television broadcasting. The Special Rapporteur's attention was drawn to the fact that the broadcast media remain in the hands of the Government, as does the press agency SUNA. Radio and television are required to reflect government and National Islamic Front policies. It was alleged that Sudan television has a permanent military censor to ensure that the news reflects official views. Certain television series were reportedly forbidden and certain programmes, like "Pops and Tops" of the MBC were closed down under the pretext that the hostess, a Lebanese girl, was not well dressed.

62. During his mission, the Special Rapporteur was told that the government-owned radio and television stations often forbid the broadcasting of Sudanese songs, and the performance of poets and artists, claiming that they are not in conformity with the cultural orientation of the regime. On the other hand, several attempts to address the concerns of the public are reflected in the broadcasting of talk shows on various issues, to which, according to official sources, members of the opposition are invited.

63. During a meeting with the Chairman of National Sudanese TV, the Special Rapporteur encouraged him to promote more programmes with a particular emphasis on human rights and even on controversies relating to the freedom of opinion and expression.

64. With regard to satellite dishes, there are restrictions in respect of ownership. It seems that the majority of Sudanese still cannot obtain them since the price is too high. It costs $750 to subscribe for one year and $3,000 for a satellite dish. Furthermore, since 1991, the Government has established a special committee within the Ministry of Culture and Information to issue, against payment of a fee, authorization to own a satellite dish. The committee can reject applications or refuse to renew an authorization. The Special Rapporteur considers that this committee restricts the right of the Sudanese to have access to information and that the free flow of information should not only be allowed but encouraged.

65. In spite of the restrictions on ownership of satellite dishes, citizens have access to foreign electronic media. The Government does not jam foreign radio signals. In addition to its own domestic and satellite television services, Sudan Television offers a pay cable network of six channels, which directly rebroadcasts uncensored Cable News Network (CNN), the London-based, Saudi-owned Middle East Broadcasting Corporation (MBC), Dubai-TV and Kuwait-TV.

66. It is the view of the Special Rapporteur that public radio and television should be independent of the control of the State, as well as of the National Assembly, the political parties and any other social groups. The legislation must exclude the possibility of State authorities or of any groups influencing the programmes in a way that would damage the balance, free expression and impartiality of information.

67. It is beyond doubt that the new technologies have made their entry into the Sudan. The Sudanese Telecommunications Company "Sudatel" was set up as a public shareholding company with the aim of expanding telecommunications services and modernizing equipment and the network. Sudatel began operating as a business in 1994 and it offers a wide range of services, including internet services, radio phones and e-mail.

68. The Special Rapporteur notes with appreciation that the use of the Internet is free from any restrictions. The situation in this regard is much better than in some neighbouring countries and the Special Rapporteur was impressed to learn that there are about 10 Internet cafés in Khartoum. There is growing public support for the provision of more facilities in this direction.

B Other concerns relevant to the promotion of and respect for the right to freedom of opinion and expression

1 Freedom of association and organization

69. This right is set forth in article 26 (2) of the Sudanese Constitution and in the Political Association Act, passed on 1 January 1999, which lifted the ban on political parties that had been in effect for the previous 10 years. This law, known as the Tawali law, led to the registration of political entities. 33 political parties, including splinter groups of parties in exile, registered under this law, but not the traditional opposition Umma Party, Democratic Unionist Party (DUP) or the Sudanese Communist Party. According to this law, the criteria for registration include adherence to democratic principles and the use of peaceful means within the framework of a healthy political debate. Moreover, parties have to clarify their position vis-à-vis the most important national issues, such as the peace talks, and have to adhere in a way to the National Islamic Front ideology. The opposition parties that were in existence prior to the 1989 ban, which followed the coup d'état, consider the Political Association Act to be restrictive and the term Tawali to be unclear. Indeed, in the drafting of the Constitution, this word replaced language that would clearly have permitted the formation of political parties. In addition, parties refusing to register object to the fact that one of the provisions of the Tawali law requires loyalty to the current Government's definition of an Islamic State. The Umma Party, for example, refused to register because it did not adhere to the Constitution. Indeed, several parties indicated to the Special Rapporteur that they contested the legitimacy of the Constitution, since the first draft, prepared by a national commission composed of respectable personalities, had been withdrawn and replaced by a draft transmitted by the President's office.

70. The Special Rapporteur welcomes the adoption of the Political Association Act and considers the process of the registration of political parties to be a positive step towards pluralism in the Sudan. However, he is convinced that the imposition of the condition on parties wishing to register that they adhere to the ideology of the ruling party, does not reflect the guarantees set forth in article 25 of the International Covenant on Civil and Political Rights, namely that "every citizen shall have the right and the opportunity" without discrimination, "to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage, held by secret ballot ...; and to have access, on general terms of equality to public service in his country". Moreover, the fact that the term Tawali is ambiguous and is at no point defined in either the Constitution or the Political Association Act leaves the way open to different constructions, incompatible with political freedom. Finally, the Special Rapporteur's attention was drawn to the fact that the registrar, who has discretion to deny registration of a particular political organization, is appointed by the President with the consent of the National Assembly. This guarantees that the registrar will be a member of the National Congress, the ruling party. Consequently, given the complexity of interpretations relating to this law, the Special Rapporteur is satisfied to have learnt that the Tawali law is currently under review and that all the political parties have been invited to participate.

71. The National Congress, the Islamist party formed by the National Islamic Front, remains the single party dominating the political scene. The leaders of several other parties are alleged to remain in exile and several parties continue to function in exile, objecting to the requirements of

the Registration Act. However, a very positive step forward was noted after the declaration of a state of emergency on 12 December 1999, with the offer by President al-Bashir to the northern opposition that it play a role after its integration into a broad national front. The Special Rapporteur expresses his satisfaction at this far-reaching proposal and the message of hope which it conveys.

72. Despite the timely concessions, especially after the adoption of the Political Association Act, the rights to freedom of assembly, association and expression are still in a precarious state which needs correction, although the development of these rights is, admittedly, a time-consuming process.

73. The Special Rapporteur was told that during a peaceful demonstration organized by DUP on 1 January 2000 to celebrate the Sudan's independence day, the police allegedly used tear gas and clubs to disperse people. Seven persons were reportedly wounded, among them, Mr. Khalid Elsayed, a lawyer, who was seriously injured.

74. On 22 January 1999, the Special Rapporteur sent an urgent appeal to the Government of the Sudan together with the Special Rapporteur on torture and the Working Group on Arbitrary Detention concerning the case of Mohamed Mahjoub Mohamed Ali, a leading member of the banned Sudan Communist Party. It had been reported that he was arrested on 28 December 1998, the day before an open memorandum was sent to President Omar Hassan al-Bashir requesting the restoration of democracy in the Sudan, respect for human rights and an end to the civil war. At the time of the appeal, Mr. Mohamed Mahjoub Mohamed Ali was at risk of torture or ill-treatment in incommunicado detention. The Government of the Sudan replied to this communication on 2 February 1999 and informed the joint authors of the urgent appeal that Mr. Mohamed Ali had been arrested on accusations of recruiting and inciting members of the popular defence forces to attack their colleagues while conducting military operations.

75. The Special Rapporteur also notes the prohibition or suspension of press conferences organized by the opposition political parties. On 2 February 1999, members of the Communist Party, Haq were alleged to have been arrested for holding a press conference. About 20 journalists and photographers present at the meeting were detained for a short period by the police.

76. Approximately 100 people were reported to have been briefly detained on 6 June 1999 while they were taking part in a press conference in Omdurman to announce the formation of a new political party, the Democratic Forces Front, aimed at inter alia, the restoration of democracy and, particularly, freedom of expression in the Sudan. The group was subsequently released, but 11 people were charged with holding an illegal gathering, disturbing public order, causing a nuisance and insulting Islam. They were released on bail after six hours.

77. The Special Rapporteur was also informed that, during the period from March to September 1999, there was a recurrence of detentions of a limited duration and of threats linked to the exercise of the right of free assembly and speech. Selected members of the opposition parties and human rights defenders were alleged to have been targeted by the Government although, compared to previous years, the number of arbitrary detentions has declined in favour

of more indirect and subtle forms of control. A system whereby persons have to report on a daily basis to a State security office and are kept waiting there the whole day before being released constitutes a new form of harassment and intimidation of people wishing to express a different opinion.

78. During the Special Rapporteur's visit, an oil-related sabotage incident took place on 20 September 1999 when a pipeline was blown up in the town of Atbara, north-east of Khartoum. The National Democratic Alliance (NDA), an umbrella opposition group, claimed the responsibility for bombing this new pipeline. The incident led to a wave of arrests of political opponents. Among others, Ahmed Ali Al-Sayed, an outspoken critic of the Government and a former executive member of the Democratic Unionist Party, was briefly detained on 26 September 1999 in connection with the attack on the pipeline. He was held for seven hours and released without charge.

79. It is relevant to mention that in the northern part of the Sudan no independent human rights NGOs exist, but independent attorneys play a similar role by representing those charged with crimes against the State.

80. Advocate Ghazi Suleiman, who has frequently represented such defendants, was arrested at least six times in 1999. He was detained in April 1999, together with other lawyers who were holding a political meeting at the bar association union. The court released the lawyers, except for Mr. Suleiman, who was sentenced to 15 days in jail and to a fine for disturbing public peace and order; Mr. Suleiman was later freed after an appeal.

81. Mustafa Abdel Gadir, another prominent member of the defence bar and a leading private prosecutor for the families and victims of ex-dictator Jafaar Nimeiri, was arrested on the eve of Nimeiri's return to the Sudan from exile in May 1999. According to the source, he and two editors of Al Ray Alaam newspaper were charged with false accusations and insulting a public servant, on account of Abdel Gadir's column, which was critical of the Criminal Act of 1991, the Security Act, and the Press and Publications Act. They were released the same evening.

82. A positive development has nevertheless been noted, with the release of 41 political prisoners in February 1999. Now, the Government of the Sudan considers that there are no longer political detainees in Sudanese jails. Other significant decisions were adopted with the issuing on 22 November 1999 of several decrees nullifying laws adopted against the opposition, in favour of the release of political detainees in the Sudan, the dropping of charges against others awaiting trial, the return of confiscated properties to opposition leaders, the unfreezing of their bank accounts and the lifting of travel bans. Consequently, during the period 22 November to 2 December 1999, 38 political prisoners were released.

83. One of the most significant gestures has been the release, announced on 22 November 1999, of 29 political prisoners, among whom are listed the 27 being tried in connection with the Khartoum bombing, including Frs. Hillary Boma and Lino Sebit.

84. Father Hillary Boma, Chancellor of the Archdiocese of the Roman Catholic Church in Khartoum and outspoken critic of government policies, another Catholic priest,

Father Lino Sebit, and 25 others, mostly southerners, were tried in a military court for conspiracy and sabotage. This followed the explosion of six bombs in Khartoum on 29 and 30 June 1999 - the day before and the day on which President al-Bashir signed the new Constitution. Only one of the accused had a link with the military and the charges were based on confessions by defendants, obtained allegedly through torture during which three members of the group reportedly died.

85. The trial was adjourned in January 1999 for appeal on the issue of whether the military court has jurisdiction over civilian defendants. In August 1999, the Sudanese Constitutional Court ordered a new trial for these detainees and voted unanimously to refer the suspects for trial by an ordinary military tribunal instead of the grand military field tribunal where they first appeared.

86. The Special Rapporteur welcomes the release of these prisoners and hopes that they will henceforth be able to fully enjoy the right to express their political opinions, however divergent they may be. He hopes there will be a positive response from different political parties to overcome anti-democratic forces.

2. Cultural expression in the Sudan

87. Concern was expressed over the constraints placed on cultural creativity in the Sudan. Indeed, access to cross-cultural information is difficult: there are few libraries and bookshops open in the Sudan and very few foreign newspapers cross the border, placing the Sudan in a situation of isolation which limits its intellectual flowering. Artistic creativity is also seldom encouraged. A number of the Sudanese writers, poets and intellectuals have left the country; the remaining poets and musicians have difficulties in publishing their work. Thus, great artistic endeavours remain untapped and unknown.

88. Today the Sudan appears to lack the motivation to undertake various activities - such as cultural symposiums, poetry readings and artisan evenings - which are one of the essential ways to develop a society.

89. At the same time, the Government states that institutions have been created in the Sudan to promote participation in cultural activities by all social groups and to further cultural creativity. Among others, they refer to the Sudanese Cultural Institute, the National Theatre Troup, the National Library and the National Film Centre. International music and song festivals are also organized.

90. Nevertheless, the Special Rapporteur met with some of the writers who had been detained for having written a book that caused displeasure to the Government. The Special Rapporteur was also told that some university professors suffered set backs for not belonging to the ruling party. Artists and poets are also reported to face difficulties in obtaining permission to travel abroad to attend international conferences.

91. It was also reported that on 1 February 1999, the Cultural Enlightenment Society invited all the political figures, trade unionists, scholars and persons interested in the issue of enlightenment in the Sudan to a press conference in Omdurman at which

Mr. Al Hag Warraq Sid Ahmed was supposed to speak. Although the society was legally registered, the security forces and public order police raided the place and dispersed the audience, some participants were arrested and taken to the Omdurman prison.

92. In addition, the Special Rapporteur was surprised to learn that photography is restricted by law. It cannot be done without a permit obtained through the Minister of Information and Culture. It was mentioned to the Special Rapporteur that people have been hauled up while taking photographs without a permit. Recourse to such an administrative measure, in the view of the Special Rapporteur, should be restrained.

93. The Special Rapporteur considers that it is in the interest of the Sudan to facilitate global access to knowledge and modern culture and to assist the dissemination of scientific and cultural knowledge. In this context, the Government of the Sudan should strengthen cultural, trade and artistic cooperation with all countries.

94. The Special Rapporteur is of the view that since there are not enough foreign books (in foreign languages) on the market, the Government should remedy this by creating a "translation bureau" specifically for screening world literature relating to science and technology, economics and sociology and reproduce it in the local language. The Special Rapporteur is convinced that the Sudanese, who are known for their interest in reading, could build a civilization of knowledge.

3. Particular issues

(a) Religious minorities

95. Representatives of the Government indicated to the Special Rapporteur that all religions are respected in the Sudan and that freedom of worship is ensured by the Constitution. However, in practice, Islam is treated by the Government as the State religion and it inspires the country's laws, institutions and policies. While non-Muslims may convert to Islam, the 1991 Criminal Act makes apostasy - which includes conversion to another religion - by Muslims punishable by death. It was mentioned to the Special Rapporteur that the accusation of "apostasy" has sometimes been used against those who oppose the policies of the regime in any way.

96. During his visit, the Special Rapporteur was informed that both non-Muslims and Muslims suffer from a certain amount of discrimination. Muslims predominate in the north, but are in a minority in the south, where most citizens practise traditional African religions or Christianity. There are from 1 to 2 million displaced southerners in the north who practice traditional African religions or Christianity. Also, approximately 500,000 Coptic Christians live in the north.

97. The Special Rapporteur noted with concern that the activities of Christians, in particular, continue to be restricted. Allegations of harassment and arrest for religious beliefs and activities were reported to him during his visit. In May 1998, the Catholic Archbishop Gabriel Zubeir was supposed to have been detained for hours, apparently to prevent his attendance at the IGAD talks. Fr. Hillary Boma and Fr. Lino Sebit were tried by a military court.

98. It was reported to the Special Rapporteur that on 6 February 1999, when a Christian student group at the University of Khartoum held their annual book show for the Bible, a group of Islamist Sudanese disrupted the exhibition. They allegedly destroyed it, and violent conflict between the organizers of the exhibition and the attackers ensued. The police did not intervene. In this incident, four Christians and three Muslims were reportedly injured, Christian materials were destroyed by burning and religious books were thrown into the Nile.

99. The Special Rapporteur's attention was also drawn to an allegation that the Khartoum state government has dismantled Christian structures and prevented the construction of Christian churches in the capital. In the past 10 years, it has allegedly removed between 30 and 50 Christian churches, centres and schools in the slums because they lacked construction permits. The Special Rapporteur was also told that the Government had not granted permits to Christian denominations to build any churches since 1967, while freely granting permits for the construction of mosques. On the other hand, the Government denies that it has destroyed places of worship, stating that if churches are built or located in "unauthorized" areas where their parishioners live, the churches will be removed along with all other structures.

100. At a meeting in the course of his mission, the Special Rapporteur was told that representatives of the Catholic Church have difficulty in gaining access to government officials; they need to request meetings with them several times before a meeting actually takes place.

101. With regard to the print media of the minorities, concern was expressed over the absence of any Christian newspapers, as well as television or radio programmes, except for half an hour during the Christmas holidays. Christians used to have their own newspaper, but it was banned in 1989. In this regard, the voice of Christians can hardly be heard publicly and if so, some sensitive issues are yet to be tackled. Reference was made to the demolishing of churches which is not reported in Sudanese newspapers, except in Al-Rai Al-Alkhar. In fact, this paper has been criticized for reporting on this issue, claiming that it had attacked Islam by publishing this sort of article.

102. The Special Rapporteur was also informed that religious persecution is also directed against Muslims who do not share the regime's form of Islamist ideology and in particular groups like the Ansar, the Muslim Brothers and the conservative Ansar al Sunna. All these groups have critical attitudes towards the Government, from outright opposition to selective independent-minded criticism. On 26 January 1999, several members of the Ansar sect were reportedly arrested by the police for illegal possession of arms. Security officers allegedly went to the Al Imam Abdelrahman Al mahdi Mosque in Omdurman and arrested the imam, Ali Shareeg El-Din, and at least 40 other men praying there, immediately after sunset prayers. It was further reported that other Ansar and Umma party leaders were arrested and the press conference they called after the arrests was surrounded by police preventing journalists from attending.

103. The Special Rapporteur raised the issue of religious minorities with representatives of the Government, who denied that minorities are suffering from discrimination in the Sudan. For instance, they informed the Special Rapporteur that a certain number of Christians work in high positions in the Government, such as the Vice-President, Riek Machar, and the State Minister for Foreign Affairs, Gabriel Rorag, as well as in the National Assembly, in the judiciary and in the

universities. In addition, the Chairman of Sudanese TV mentioned that special time is allocated to the Christians on Sunday at 10 a m. every week, as well as at Christmastime and since the majority of Christians are in the south, the local television station in Juba broadcasts specific programmes for them. The Special Rapporteur is convinced that the problems referred to above are soluble and this gives hope for more progress in the future.

(b) Women

104. The Constitution contains provisions for the equal rights of women, but the 1991 Criminal Code, in particular, seriously curtails their rights. Indeed, this code puts constraints on women with respect to their public behaviour and dress and provides for punishment by whipping. The Special Rapporteur has been informed that women are especially targeted as recipients of this type of punishment, which is administered shortly after sentencing.

105. The Public Order Act 1996 provides, inter alia, that women should be "dressed in a manner that takes into account Islamic values" and that on public transportation vehicles women should not take seats near the drivers; in public gatherings, including those organized in schools, farms, educational institutions and clubs, women should be separated from men by curtains. Governmental sources informed the Special Rapporteur that this legislation is in fact not implemented in a strict manner and that, compared to neighbouring countries, women are allowed more liberty. However, the Special Rapporteur considers that the fact that these provisions of the Act remain in place is not a positive point. On several occasions, the Public Order Police have rounded up female students wearing tight trousers or short skirts. Punishments provided by this Act, especially lashing of women, are carried out at the headquarters of the Khartoum Popular Police Forces (PPF).

106. The case of a group of 24 students of Ahlia University in Khartoum was mentioned to the Special Rapporteur. On 13 June 1999, after the adoption of a new dress code which requires women to wear clothing compatible with Islamic values, this group was reportedly arrested and convicted by the Public Order Court on charges of committing indecent or immoral acts and wearing clothes which upset public feelings. They were allegedly arrested at a picnic, held with the permission of the university and the local authorities. All the women in the group, aged 18 to 23, were sentenced to 40 lashes and fines of up to US$ 20 for having worn shirts, trousers and tee-shirts. During their detention some of them were reportedly subjected to sexual harassment.

107. In this regard, the Special Rapporteur wishes to express concern about the heavy hand with which the security forces appear to exercise authority in public life in the Sudan. In addition to the Nizham El Arm (moral police) which have terrorized the population, it was reported to the Special Rapporteur that the National Security Act provides a framework for impunity and falls far short of the standards provided for in the Bill of Rights enshrined in the 1998 Constitution. He welcomes the news that a revised National Security Act was passed by the National Assembly on 14 July 1999, whose main features are changes in the system of detention and the creation of a Minister of National Security Affairs.

108. The attention of the Special Rapporteur was also drawn to the fact that women are under represented in the Government and politics. In accordance with constitutional decrees, women have the right to vote in any public elections and are also qualified to compete for the

office of the President of the Republic and for membership in the Parliament. However, only 25 women are members of the National Assembly, which consists of 300 members in all. In addition, 89 per cent of economically active women still work in agriculture, while only 4 per cent work in the industrial sector.

109. Nevertheless, it should be appreciated that the Government is making efforts to increase the employment of women in government offices (10 per cent). The authorities have also taken steps to uphold the political importance of women. According to the Government, Sudanese women are moving into many areas from which they were by tradition excluded, and are now present in all walks of life - from politics and business to law, medicine, the military and the police. The Government has also established women's studies and research units at higher education institutions and women's development units in various government ministries, corporations and bodies. The Special Rapporteur learned that a woman ambassador was recently appointed and that out of 750 judges, 76 are women.

110. However, Sudanese women who openly oppose the Government run enormous risks. Living in a culture where women are less active in politics than men makes them all the more subjects of suspicion when they do enter the public arena. In fact, very few women occupy positions of authority within the outlawed political parties and women opponents of the Government must report day in and day out for weeks at a time to security offices. Sara Abdallah Abdelrahman Nugdallah, a university lecturer, was arrested and detained several times only for being a member of the executive of the women's committee of the opposition Umma Party.

111. As far as the media are concerned, it has been reported that discrimination against women journalists exists since they are rarely promoted. Amal Abbas, the only woman editor-in-chief, was recently barred from taking part in the NPC elections for not being a registered member of the Sudanese Journalist's Union, despite being a practising journalist.

112. Due to their "inferior state", women are also not free to express their views in the newspapers and radio. Certain issues like domestic violence or violence against women in general are never addressed, either by the Government or by the media.

113. Concern was expressed to the Special Rapporteur in reference to freedom of assembly of women, a right which is regularly violated. A group frequently targeted for harassment is the Martyrs' Families Organization, mostly composed of women relatives of 28 army officers summarily executed after a coup attempt during Ramadan in 1990. They come together on the yearly Ramadan anniversary of the killings to peacefully protest the murders and to demand redress. In January 1999, two members of the group were reportedly summoned to security offices prior to the anniversary and forced to sign a promise not to participate in any activities to commemorate the deaths. A third member, Khalda Elsayed, was detained and released on bail.

114. On 8 March 1999, the Alliance of Democratic Women organized a festival to commemorate International Women's Day in Abdel Karim Mirghani Centre in Omdurman. Security forces and police raided and closed the centre and arrested its Director. The people

present were beaten with sticks and batons in order to disperse them. In the meantime, other women's organizations which are ideologically closer to the regime were allowed to celebrate the event.

115. In a joint initiative with the Special Rapporteurs on the situation of human rights in the Sudan and on violence against women, the Special Rapporteur sent a communication to the Government of the Sudan on 5 December 1997 concerning an incident which occurred in front of the UNDP office in Khartoum. On 1 December 1997, a group of approximately 50 women arrived at the UNDP compound to transmit, through this office, a letter to the United Nations Secretary-General protesting against the compulsory military conscription of their sons and brothers to fight in the civil war in southern Sudan. It was alleged that the police dispersed the peaceful demonstration with force, aggressively beating and abusing the women, who were then arrested. One woman received 40 lashes and 36 received 10 lashes each following a summary trial at which they were convicted for public order offences. The Government of the Sudan replied to this letter on 9 January 1998 informing the Special Rapporteurs that the demonstration had been carried out in violation of the law, which requires a licence from the local authorities of Khartoum State.

116. Finally, the efforts of the Government should not be ignored. It has to be noted that the Human Rights Advisory Council, a government body, continued its active role in addressing human rights problems with the Government, in particular the restrictions on women travelling outside the country and the issue of the release of political prisoners. Thanks to its influence, in 1996 the Government lifted some restrictions on married women travelling abroad, but continues to require permission of a male relative for unmarried women travellers. In late 1998, the Government also decreed that female government employees would be permitted to drive government vehicles.

117. Furthermore, the Special Rapporteur's attention was drawn to the fact that the Government has banned female circumcision and permitted meetings on the topic. A conference was even held on the subject in April 1999. Furthermore, reference was made to the good work done by the government-sponsored Sudan National Committee on Traditional Practices, whose objective is to eradicate harmful practices endangering the health of women and children, in particular female genital mutilation, which is still performed on 82 per cent of women. The merit of this organization is to have publicized the danger of this type of practice, thereby leading to an open debate in the media.

(c) Students

118. Sudanese universities are at the heart of political activity. They are subjected to violent repression during demonstrations against the Government. They are also subject to attacks by the security forces and by militias of the Islamist groups which are protected by the Government.

119. The Special Rapporteur learned with concern that a large number of students have been arrested over the years. It is alleged that they were often abducted, blindfolded and tortured, and then released after a day or so. In the worst cases, death occurred in custody. Such was the case of Mohamed Abdesalam Babiker, a law student at the University of Khartoum and a member of the Democratic Front, who was reportedly arrested on 4 August 1998 by units of the Popular

Defence Forces and the Forces for the Defence of Belief and the State while taking part in a demonstration protesting an 80 per cent rise in university fees. He died while in the custody of the security forces on 4 August 1998. It was alleged that several other students were heavily tortured for belonging to opposition parties or associations, among them Khalid al Taher Mustapha, a 25-year-old student and a member of the New Forces Movement, was abducted in front of the University on 12 November 1998, driven to a hotel and tortured. Mohamed Ahmed el Nour, aged 29, and Muawia Bushra, 25, both students at the University of Juba and members of the Democratic Front allegedly met the same fate in December 1998.

120. Other more recent cases have been brought to the attention of the Special Rapporteur. They concern, first of all, Adam Issa Mohammed, an economics student, and Al-Waseela Ahmed Eizeldin Malaa, a law student, both studying at the Islamic University in Omdurman, who were allegedly abducted on 21 March 1999 and taken to a secret detention centre, known as a "ghost house", where they were severely tortured. They were found unconscious in a different district of the capital.

121. On 27 September 1999, 190 students in Omdurman were arrested for having demonstrated on the streets of Khartoum to protest against the arrest of 50 of their colleagues; they were charged with "inciting riots". The unrest spread to Atbara, where 12 students were allegedly injured in clashes with the riot police and an unknown number of students were arrested.

122. Finally, the Special Rapporteur wishes to raise an issue relating to students and the right to education that he considers to be of great importance. During his mission, he learned that most of the above-mentioned clashes between students and the Government seem to be linked to compulsory military service. Conscription was introduced by the National Service Law of 1992, in accordance with which all men between 18 and 33 years old are liable for military service lasting for 24 months (18 months for high school graduates and 12 months for university and college graduates). It was also reported that a government decree of June 1997 provides that all boys, typically of ages 17 to 19, (other sources mentioned youths aged 16 and upwards) are required to do between 12 and 18 months compulsory military service in order to receive a certificate on leaving secondary school. Students need such a certificate for entry into a university and the decree effectively broadened the conscription base. It has been alleged that the Government enforces this decree and then attempts to send a number of the youths concerned to combat zones for advanced military training, presumably for ultimate incorporation in the Sudanese People's Armed Forces.

123. In April 1998, 52 recruits (129 according to other sources) reportedly died when their boat capsized in the Blue Nile as they tried to flee a camp south-east of Khartoum. According to the information received, soldiers beat and shot recruits as they tried to escape. Furthermore, the regime had summarily closed the institutions of higher education for almost a year (October 1997 to September 1998) for security reasons, and in August 1998, decided to raise residence fees by 80 per cent at Khartoum University.

124. During his mission, it was frequently mentioned to the Special Rapporteur that, at the present time, 70 per cent of students are female, which the Government indicates as a rise in

power for women in the educational field. In fact, males have avoided registering for the school certificate in order to escape the inevitable link with compulsory instant combat.

125. The Special Rapporteur regrets that the education of the Sudanese people has been relegated to a secondary position, even though he understands the requirements of war. He nevertheless considers that imposing military service as a condition for continuing one's studies is fundamentally a violation of the right to education. Appropriate forms of civil service or conscientious objection to military service should be sought in order to respect both freedom of opinion and the right of students to choose.

III. CONCLUDING OBSERVATIONS

126. The Special Rapporteur would like to welcome the stated commitment by the Sudanese to bring peace to the country and to promote the transition to democracy. In particular, he recognizes that the Sudan has adopted better legislation and subscribed to most of the international human rights conventions, and has created, through such legislation, machinery designed to ensure their application in its territory. He hopes that the situation that led to the recent establishment of a state of emergency in the north is only temporary and that the authorities will rapidly understand the necessity of returning to a normal situation.

127. The Special Rapporteur considers that the Government of the Sudan has made significant advances with regard to political and civil rights in the past two years, the chief of which has been the adoption of the new Constitution. The Government has chosen the right path by reforming the legal and social system, taking international law into consideration. He considers the adoption of the Constitution and the registration of political parties to be important steps for guaranteeing human rights, in particular the right to freedom of opinion and expression. It is to be hoped that these improvements will mark the beginning of sustainable positive change.

128. The Special Rapporteur wishes to recall that freedom of opinion and expression constitutes the basis of all the freedoms on which democracy rests. No nation can make progress if freedom of expression is not guaranteed to all its citizens and protected by the law. The Sudan has made great progress recently and the Special Rapporteur notes with appreciation the attempts of the Government to be more open with regard to freedom of opinion and expression. These new developments are reflected in greater political expression and more political debate in the newspapers.

129. The Special Rapporteur was informed on several occasions of the Government's efforts to bring the law into line with international standards. However, the information he has received concerning the period following the adoption of the new Constitution, which was characterized by the violation of political freedoms and human rights abuses, fails to demonstrate a serious effort on the part of the Government to move in this direction. In addition, the Special Rapporteur noted that the majority of non-official persons he met during his mission do not have full confidence in the intentions of the Government and consider the fundamental freedoms to be precarious. Moreover, the situation and problems in the south remain unchanged. The current state of emergency is not very promising and can only undermine confidence in the Government's intention to introduce genuine reforms and positive developments, such as more

political debate and greater freedom of the press. The armed conflict originating in the southern part of the Sudan is an obstacle to the full exercise of the right to freedom of opinion and expression, but should not be an excuse for restricting this right.

130. With regard to the legislative framework guaranteeing the right to freedom of opinion and expression, the Special Rapporteur is concerned that while this right is now formally guaranteed in the Constitution, the Press Law and the Political Association Law, certain provisions of the latter are ambiguous and based on an unduly broad view of the legitimacy of restrictions, thus allowing impermissible infringements on the freedom of opinion and expression. The Special Rapporteur notes that the National Press Council has broad discretionary power, for instance to apply administrative suspension measures or to prohibit publication of newspapers in an abusive way, thereby muzzling ideas and the expression of opinions. The Special Rapporteur considers that the role of a press council, to the contrary, is to promote the profession of journalism and the efficiency of the press, and to guide the profession.

131. In addition, even if members of the press can work in an increasingly free atmosphere and can touch upon sensitive issues, the Special Rapporteur considers that there should be more tolerance for some points of view which Sudanese society refuses to accept today. If, on the one hand, sensibilities should be respected, on the other hand expression of opinion should be accepted as part of the democratization process.

132. The Special Rapporteur is concerned at the State's monopoly and control of the national radio and television broadcasting system, and of the major daily newspapers. In this connection, he deplores the obstacles encountered by the print media in trying to provide the Sudanese public with a different source of information. For this reason, he is concerned at Government measures intended to limit the Sudanese people's right to receive information and ideas of all kinds, regardless of their origin. He regrets, in particular, the obstacles which limit the use of satellite dishes, and those restricting the free circulation of information from abroad through the press or television.

133. In this context, the Special Rapporteur would like to refer to article 19 of the International Covenant on Civil and Political Rights, which states that everyone has the right not only to impart information of all kinds but also to receive information regardless of frontiers. The free circulation of information and exchange of ideas through the media and in other public forums is indispensable to the proper functioning of a democracy.

134. Furthermore, the Special Rapporteur is very disturbed by the number of cases of arbitrary detention, torture and harassment of persons who seek to express different opinions, particularly journalists, political opponents, students and human rights advocates. He particularly deplores the intimidation of journalists, which is having a chilling effect on freedom of the press.

135. The Special Rapporteur believes that a resolution of the current differences and an open dialogue with the opposition are essential steps for furthering the promotion and protection of human rights. He also wishes to emphasize the important role of freedom of opinion and expression in this process.

136. The Special Rapporteur regrets that religious minorities continue to be discriminated against in law and practice. He considers that more has to be done to integrate minorities into the media. He is convinced that additional efforts should be undertaken in order to integrate religious minorities into Sudanese society, by listening more closely to their problems. It is the view of the Special Rapporteur that, in a multicultural and multireligious society, more attention should be drawn to the weak than to the strong. In addition, he wishes to refer to the recommendation of the Special Rapporteur on religious intolerance, contained in his report to the General Assembly, that "special efforts should be made with respect to places of worship, which should be a forum for religious matters alone, not political ones and ... should be protected from political tensions and controversy". Thus, all prohibitions and limitations imposed on the place of worship of Muslims and non-Muslims should be abolished.

137. The Special Rapporteur welcomes certain progress in the status of women, especially their growing access to professional fields usually reserved to men. However, their condition remains very low owing to legislation and practices that discriminate against women.

138. The Special Rapporteur has noted the need for technical assistance in the field of human rights and the media and he welcomes the perspective of permanent representation of the Office of the High Commissioner for Human Rights in the Sudan to implement a technical cooperation project, which is currently being elaborated after a needs assessment mission in September 1999.

IV. RECOMMENDATIONS

139. On the basis of the principal observations and concerns set out in the previous section, the Special Rapporteur would like to offer the following recommendations for consideration by the Government. In view of the open and constructive exchanges of views that took place during his visit, the Special Rapporteur is convinced that these recommendations will be received in a spirit of shared commitment to strengthening the promotion and protection of the right to freedom of opinion and expression.

140. The Special Rapporteur would like to encourage the Government in its determination to cooperate with the special procedures of the United Nations by recommending that it should consider in a positive light a visit by two other mechanisms of the Commission on Human Rights to the country, namely the Special Rapporteur on violence against women and the Working Group on Arbitrary Detention. The Government could thus take advantage of their expertise in these two fields which, in the Special Rapporteur's view, merit particular attention.

141. The Special Rapporteur recommends that the Government give serious consideration to the establishment of a separate and autonomous national human rights institution that would act independently of any other State authority or ministry functioning as part of the Government, in accordance with the Paris Principles relating to the status of national institutions.

142. The Special Rapporteur strongly encourages the Government of the Sudan to take all necessary steps to accede to the Convention on the Elimination of All Forms of Discrimination

against Women and to the two Optional Protocols to the International Covenant on Civil and Political Rights. The Government is also requested to ratify the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.

143. The Government is further urged to revise certain domestic laws which are currently too restrictive as to the exercise of the right to freedom of opinion and expression, in particular the Press Act 1999 and the Political Association Act 1998 (Tawali law):

(i) The Press Act 1999 should be revised in order to redefine with more clarity certain of its articles and to bring them into conformity with article 19 of the International Covenant on Civil and Political Rights. Particular attention should be given to the urgent revision of the National Press Council, which should first become a self-regulatory body, to confer upon it real independence and to permit all press interests to be represented. The competence of the NPC to suspend newspapers, which is currently used in an arbitrary way, should be withdrawn and become the prerogative of a special court which could be established to deal solely with press issues, in order to avoid lengthy procedural delays. It should be stressed that the role of a press council is to promote and defend the independent press;

(ii) The Political Association Act should be revised with a view to legalizing the traditional opposition parties, which are currently operating clandestinely, and facilitating the establishment of new parties, thereby encouraging the development of true political pluralism. The law should also promote the creation of an environment conducive to the development of society by facilitating the establishment of independent NGOs.

144. The Government is urged to ensure that future legislation and its implementation are in compliance with article 19 of the International Covenant on Civil and Political Rights and other relevant international standards. The Government is also encouraged to consider ways to ensure that the process of introducing future legislation that may affect freedom of expression and media freedom is transparent. The Government may also wish to consider ways of including media professionals in this process, to continue its cooperation with international organizations and to benefit from advisory services. In the case of the adoption of a future law on official secrets and freedom of information, the Government should keep in mind the principles and guidelines for the elaboration of freedom of information legislation which are contained in the annex to his annual report to the Commission on Human Rights (E/CN.4/2000/63).

145. The Special Rapporteur further urges the Government of the Sudan to ensure suppression of intimidation and harassment of persons seeking to exercise their right to freedom of opinion and expression, in particular journalists, political opponents, students and human rights advocates. Steps should be taken to investigate promptly any acts of violence brought to their notice, and those responsible should be brought to justice.

146. In accordance with the recommendation of the Human Rights Committee of November 1997, the Special Rapporteur urges the Government to remove all unnecessary restrictions on freedom of expression and assembly. The right to peaceful assembly should also be respected by law enforcement officers.

147. The Special Rapporteur strongly urges the Government to take all necessary steps to guarantee the independence of the media, such as by protecting them against any interference on the part of the party in power. The establishment of additional independent newspapers and private competitive television stations should be encouraged.

148. The Government should provide the media with free access to all areas of the country, in particular the Nuba Mountains and all locations in southern Sudan.

149. As regards the flow of information from other countries, the Special Rapporteur urges the Government to avoid restrictions on foreign newspapers and on the broadcasting of foreign programmes. In this regard, the committee in charge of giving authorizations for satellite dishes should be abolished.

150. All policies and practices that discriminate against women in Sudanese society should be eliminated. Certain provisions of the Criminal Code and the Public Order Act 1996 raise serious concern with regard to the rights of women. The Government is strongly urged to review these laws in this regard and to put an end to abuses committed by the security forces and militias like Nizar El Am, which particularly target women. The Special Rapporteur considers that this type of abuse gives a very bad public image of the Sudan.

151. The Special Rapporteur remains concerned about the persistent pattern of prejudice and discriminatory attitudes towards religious minorities. It is recommended that new measures be taken in order to give equal access to the media to all parts of Sudanese society, especially minorities and women.

152. As far as cultural expression is concerned, the Special Rapporteur would recommend that the Government encourage intellectual and artistic creativity by abolishing all direct and indirect interference which would have an inhibiting effect. Funds should be invested in new technologies and the diffusion of literary works to the Sudanese population. In this particular regard, the Special Rapporteur would recommend the creation of a "translation bureau" specifically for screening the world literature relating to science and technology, economics and sociology and reproducing it in the local language.

153. The Special Rapporteur encourages the Government to disseminate to the widest audience basic human rights instruments and information. He also recommends that it initiate and organize training in international human rights standards and practice for various groups of professionals, including government officials, members of Parliament and the judiciary, particularly with regard to the right to freedom of opinion and expression, and to ensure that international standards are applied in their respective areas of competence. Journalists themselves should be trained through the establishment of a Sudanese institute of journalism,

which would increase their professionalism and the quality of their work. The Government may wish to consider benefiting from international expertise in this area in designing and conducting training programmes and establishing this institute.

154. The Special Rapporteur considers the building of a human rights culture in the Sudan to be of extreme importance and, in this regard, he would recommend that a specific time be allocated, at least once a week, for human rights issues in radio and television programmes in order to disseminate information on various human rights issues. In this context, journalists should be trained in order to play their crucial role in the dissemination of human rights issues through the media.

155. Finally, the Special Rapporteur welcomes the cooperation the Government of the Sudan extended to OHCHR for establishing a technical cooperation project which would include a media component. The participation of other institutions, such as UNESCO, which have valuable expertise in the field of the media, could also be encouraged.

Annex

PERSONS WITH WHOM THE SPECIAL RAPPORTEUR MET DURING HIS VISIT

Officials

Dr. Hassan El Turabi, Secretary General of the National Congress

Mr. Abdel Rahman Ebrahim, Under-Secretary General, Ministry of Justice

Mr. Gabriel Rorag, State Minister for Foreign Affairs

Mr. Abdul Dafie Al-Khateeb, Secretary General, External Information Council, Ministry of Culture and Information

Dr. El-Mufti, Rapporteur, Advisory Council for Human Rights

Mr. Hamid Sirag El Din, Chairman, Human Rights and Public Duties Committee, National Assembly

Mr. Abdel Aziz A. Shiddo, Deputy Speaker, National Assembly

Mr. A.S. Suleiman, Head of the Police Department

Mr. Abdelhamid Osman Asmali, member of the Committee on Grievances

Diplomatic community

Mr. Michel Raimbaud, Ambassador of France

Mr. Valery I. Kouzmin, Ambassador of the Russian Federation

Mr. Richard Makepeace, Chargé d'affaires, Embassy of the United Kingdom of Great Britain and Northern Ireland

Mr. Huitzinj, Chargé d'affaires, Royal Netherlands Embassy

Mr. Marteen Brouwer, Counsellor, Deputy Head of Mission, Royal Netherlands Embassy

Professionals in the information sectors

Dr. Ismael El Haj Musa, Chairman, National Press Council

Dr. Osman Abu Zaid, Secretary-General, National Press Council

Director of Sudan Television

Zubeir Osman, Director of Sudan Radio

Ms. Neimat Moh-Bilal, Director, Sudanese News Agency (SUNA)

Mr. Barri A-Mulah, Assistant Director of SUNA

Ms. Amal Abbas, Chief Editor, Al-Ra Al-Akhar

Mr. Mohammed Said Maroud, Editor-in-chief, El Gabas

Editor-in-chief, El Bayan

Editor-in-chief, Alwan

Nagib Adam Kamaradin, Editor-in-chief, El Anban

Mr. Mohammed Mohi Eddin Titawi, Editor-in-chief, Al Osbou newspaper, and Deputy Director of the Sudan Journalist Union

Mr. Zafir, Editor-in-chief of the student newspaper Anhagiga

Mr. Abdel Sid, journalist for Ash Sharq Al Awsat

Mr. Alula Berhe Kidani, freelance writer, Al-Rai Al-Akhar

Academics

Professor Awad Abdalla, Dean of the Faculty of Law, University of Khartoum

Professor Sara Nugdalla, university lecturer, Sudanese Women Alliance

Dr. Al-Taib Hag Ateya, Dean of the Department of Communication, University of Khartoum

United Nations community

The United Nations Regional Coordinator, the United Nations Information Centre, UNICEF, UNDP, FAO, UNHCHR, UNIDO, WFP, WHO

Non-governmental organizations

National NGOS: Sudanese Council of Voluntary Associations (SCOVA); representatives of the Women's Union

International NGOs: International Federation of the Red Cross and Red Crescent Societies, Save the Children, GOAL, Fellowship for African Relief, International Rescue Committee, CARE, German Agro Action (GAA), the African Centre for the Constructive Resolution of Disputes (ACORD), Oxfam, Action contre la faim.

Others

Mr. Fathi Khalil, President of the Bar Association

Mr. Galal Ali Loffti, President of the Constitutional Court

Mohammed Abel Dayan, judge of the Appeal Court

Dafalla El Hag Youssif Medani, lawyer and Commissioner for Oaths

Mr. Salah Moubarak, representative of the Sudanese Jurist Union

Representatives of the Catholic Church

Representatives of the student community

Representative of the writers' community

Members of the opposition parties

Dr. Toby Madut and Omar Sid Ahmed, Democratic Forces Front, Sudanese Human Rights Group

Mr. Mustafa Abdel Gadir, member of the defence bar

Ms. Ashwagh Youssif, lawyer, Sudanese Human Rights Centre